

WATER REGULATORY UPDATE

KANSAS ENVIRONMENTAL CONFERENCE

Hutchinson, Kansas

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CLEAN WATER RULE - WOTUS

- ◆ Proposed Rule: April 21, 2014
- ◆ Final Rule: June 29, 2015
- ◆ Effective Date: August 28, 2015
- ◆ Final rule is a definitional rule intended to clarify the scope of “Waters of the US” consistent with the CWA, science, addressing existing practices and waivers being administered, and 3 Supreme Court decisions.
- ◆ 17 Cases filed in US District Courts
- ◆ 22 Petitions filed in US Circuit Courts of Appeals
- ◆ Do District Courts or Circuit Courts of Appeal have jurisdiction?

NPDES MS4 GENERAL PERMIT REMAND

- ◆ Proposed Rule: January 6, 2016
- ◆ Projected Promulgation: November 17, 2016 per lawsuit settlement agreement.
- ◆ Revises MS4 regulations to ensure permitting authority determines adequacy of BMPs and other requirements.
- ◆ Provides for public notice and opportunity for a public hearing on requirements for each MS4.
- ◆ Proposes 3 regulation implementation options:

Traditional GP – All requirements in permit

Procedural Approach – All BMPs in NOI

States Choice – Option 1 and/or Option 2

STEAM ELECTRIC EFFLUENT GUIDELINE STANDARD (40 CFR 423)

- ◆ Proposed Rule: June 7, 2013
- ◆ Final Rule: November 3, 2015
- ◆ Effective Date: January 4, 2016
- ◆ Currently undergoing legal challenges. 5th Circuit Court of Appeals lawsuit.
- ◆ New Standards Address:

Flue gas desulfurization (FGD) wastewater.

Fly ash and bottom ash transport water.

Flue gas mercury control wastewater.

Coal combustion residual leachate from ponds and landfills.

EPA WATER QUALITY STANDARDS REGULATION REVISION (40 CFR 131)

- ◆ Proposed Rule: September 4, 2013
- ◆ Final Rule: August 21, 2015
- ◆ Final Rule Correction: September 25, 2015
- ◆ Effective Date: October 20, 2015
- ◆ Regulations had not been updated in 30 years.
- ◆ New regulations address:

Requires EPA Regional RA determination new or revised WQS are necessary.

Clarified States have to conduct a UAA to change designated use, and highest attainable use is goal.

States required to explain why they have not adopted the EPA guidance criteria at each triennial review.

Clarified what parts of the WQS the States must review during each triennial review.

Defined variances, including the need for existing discharges must meet best effluent level they can achieve with the existing plant.

Allowed compliance schedules.

Adds clarification on public involvement in antidegradation analyses.

NPDES ELECTRONIC REPORTING RULE

- ◆ Proposed Rule: July 30, 2013
- ◆ Supplemental Notice of Proposed Rule: December 1, 2014
- ◆ Final Rule: October 22, 2015
- ◆ Effective Date: December 21, 2015
- ◆ Regulation requires the electronic reporting and sharing of CWA NPDES program information by transitioning from paper to electronic reporting.
- ◆ EPA claims it will provide greater clarity on compliance, provides timelier, complete, and more accurate data as well as a nationally-consistent set of NPDES Program data.

- ◆ Phase I – Implement 9 months after the effective date of the regulation (September 21, 2016). Addresses basic facility and permit data and submission of DMR data.
- ◆ Phase II – Implement within 5 years. Begin collecting, managing, and sharing the remaining data requirements. Includes the electronic submission of permit applications.

DENTAL CATEGORY EFFLEUNT

GUIDELINE STANDARDS 40 CFR (441)

- ◆ Proposed Rule: October 22, 2014
- ◆ Projected Promulgation: December 2016
- ◆ Proposing technology-based pretreatment standards for dental practices that discharge dental amalgam to control the release of mercury into the environment.
- ◆ Employs use of BAT and BMPs for discharges to POTWs.
- ◆ Involves installation of amalgam separators that are ISO Certified 95% or greater for removal of mercury.
- ◆ Would remove 4.4 tons of mercury per year.
- ◆ Implementation requirements by States and POTWs are a concern due to the sheer number of facilities.

CWA METHODS UPDATE RULE FOR ANALYSIS OF EFFLUENT (40 CFR 136)

- ◆ Proposed Rule: February 19, 2015
- ◆ Projected Promulgation: December 2016
- ◆ Proposes changes to pollutant analysis methods that are used by industries and municipalities to analyze the chemical, physical, and biological components of wastewater and other samples required by regulation under the CWA.

METAL FINISHING EFFLUENT GUIDELINE STANDARDS (40 CFR 433)

- ◆ April 11, 2016 EPA Memorandum
- ◆ Zirconization is the trade name applied to a process that forms a zirconium oxide conversion coating on a metal substrate.
- ◆ Because Zirconization is a conversion coating and passivation operation, EPA concludes wastewater generated by Zirconization or a process that applies a zirconium oxide finish to a metal substrate is subject to the Metal Finishing Effluent Guideline Standards.

OIL & GAS EFFLUENT GUIDELINE STANDARDS (40 CFR 435)

- ◆ Proposed Rule: April 7, 2015
- ◆ Final Rule: June 28, 2016
- ◆ Effective Date: August 29, 2016
- ◆ Establishes pretreatment standards that prevent the discharge of pollutants in wastewater from onshore unconventional oil and gas (UOG) extraction facilities to POTWs. No discharge requirement.
- ◆ UOG means oil and gas produced from shale and/or tight formations such as shale gas, shale oil, tight gas, and tight oil formations.

EPA AMBIENT WATER QUALITY CRITERIA - CADMIUM

- ◆ Notice of Availability: April 4, 2016

- ◆ Freshwater Criteria set at:

Acute (1-hour, dissolved Cd) = 1.8 ppb

Chronic (4-day, dissolved Cd) = 0.72 ppb

Criteria is hardness dependent and is normalized to a hardness of 100 ppm as CaCO_3 for representative comparisons.

Limits lowered to protect commercially and recreationally important species (Rainbow Trout).

AQUATIC LIFE WATER QUALITY CRITERION FOR SELENIUM

- ◆ Notice of Availability: July 13, 2016
- ◆ Chronic Criteria Using Intermittent Exposure Equation
- ◆ Criteria:

Egg-Ovary 15.1 mg/kg dw

Whole Body 8.5 mg/kg dw

Muscle 11.3 mg/kg dw

Water 1.5 ppb 30-day Lentic

Water 3.1 ppb 30-day Lotic

Lentic = Still water

Lotic = Moving water

EPA NPDES APPLICATIONS & PROGRAM UPDATE RULE

- ◆ Proposed Rule: May 18, 2016
- ◆ Comment Period closed: August 2, 2016
- ◆ Projected to be sent to OMB: September 2016
- ◆ Purpose of the Proposed Rule is to:
 - Eliminate regulatory and application form inconsistencies.
 - Improve permit documentation, transparency, and oversight.
 - Clarify existing regulations.
 - Remove outdated provisions.

KANSAS LAGOON AMMONIA VARIANCE

- ◆ Draft Regulations currently being developed.
- ◆ EPA's 2013 ammonia guidance criteria lowered criteria by 2.5 times from previous EPA 1999 ammonia criteria.
- ◆ Snails and mussels drive the new criteria. Assumed to be present statewide east of Hays.
- ◆ Most municipal lagoons can't meet new criteria in winter and summer months. KDHE estimates 355 small municipal lagoons impacted.
- ◆ KDHE, EPA VII, and EPA Headquarters working on a multi-facility variance (MFV) process concept. Uses median household income threshold and secondary financial indicators.

- ◆ Basis for the KDHE MFV concept is the potential widespread economic and social impact to municipalities.
- ◆ KDHE MFV good for 20 years. Reviewed with permit renewals every 5 years.
- ◆ If KDHE MFV granted, ammonia permit limit becomes prior historical effluent performance.
- ◆ Based on 99th percentile of past performance data (expected range 0.8 – 2.5 ppm).
- ◆ Our permit may contain a compliance schedule to evaluate Non-Q and controlled discharge options.
- ◆ Very few streams are now impaired for ammonia, even under the new EPA criteria. MFV for lagoons won't change status of impaired streams.

EPA EFFLUENT GUIDELINES AND STANDARDS UPDATE

ONGOING STUDIES

- ◆ Centralized Waste Treatment (40 CFR 437)
Address oil & gas extraction wastewater.
- ◆ Petroleum Refining (40 CFR 437)
Investigate discharge of dioxin and metals.
- ◆ Metal Finishing (40 CFR 433)
Evaluate new metal finishing chemistries, applicability concerns, advances in wastewater treatment, and overlap with the electroplating regulations.

NEW EFFLUENT GUIDELINES WORK

- ◆ Battery Manufacturing (40 CFR 461) 1984
- ◆ Electrical & Electronic Components (40 CFR 469) 1983
- ◆ Iron & Steel Manufacturing (40 CFR 420) 2002
- ◆ Organic Chemicals, Plastics, and Synthetic Fibers Manufacturing (40 CFR 414) 1987
- ◆ Pulp and Paper Mills 1998

Kansas Water Quality Standards Update

- ◆ Final Rule: March 20, 2015
- ◆ Major amendments to the water quality standards regulations include:

Adopted Biotic Ligand Model for copper aquatic life criteria.

Specify duration and frequency of numeric criteria for assessment purposes.

Clarified the dissolved oxygen aquatic life criteria.

Adopted a number of new criteria from:

National Drinking Water Regulations.

National Recommended Water
Quality Criteria or the CWA 304(a)
Criteria.

National Toxics Rule (40 CFR 131.36).

Adopted criteria for chlorophyll-a for active
and reserve domestic water supply lakes or
reservoirs.

EPA eDISCLOSURE PORTAL

- ◆ Notice Published: December 9, 2015
- ◆ Modernizing implementation of self-disclosure policies by creating a centralized web-based eDisclosure Portal to receive and automatically process self-disclosed civil violations.
- ◆ Provides penalty mitigation and other incentives for companies that self-police, disclose, correct, and prevent violations.



QUESTIONS



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